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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional)					
<p>I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]</p> <p>on _____</p> <p>Signature _____</p> <p>Typed or printed name _____</p>		TMN 1948.000001					
		Application Number					
		Filed					
		First Named Inventor					
		09/876,111		6/8/2001			
		R. SHANE GREEN					
		Art Unit		Examiner			
		2145		JEFFREY R. SWEARINEN			
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p>							
<p>I am the</p> <p><input type="checkbox"/> applicant/inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input checked="" type="checkbox"/> attorney or agent of record. 53,564</p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</p>						<p> Signature</p> <p>LISA Schoedel Typed or printed name</p> <p>312-894-7351 Telephone number</p> <p>4/7/08 Date</p>	
<p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p>							
<p><input type="checkbox"/> *Total of _____ forms are submitted.</p>							

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
)
 R. SHANE GREEN,)
 EDIN SARACEVIC,) Examiner: JEFFREY R. SWEARINGEN
 TARIK KURSPAHIC, AND)
 MICHAEL D. SYLVESTER)
) Group Art Unit: 2145
 Serial No.: 09/876,111)
)
 Filing Date: June 8, 2001) Confirmation No.: 8526
)
 For: SYSTEM, METHOD AND)
 COMPUTER PROGRAM PRODUCT)
 FOR A LOCATOR SERVICE)

REASONS FOR PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
Mail Stop 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicants request review of the Office Action mailed January 8, 2008 because the Examiner, when responding Applicants' arguments, made errors in fact and an error in law.

1. Status of the Claims

Claims 21-33, 35-39, and 41 are currently pending. Claims 21, 30, 35, 38, and 41 are independent claims. Claims 21-27, 29-36, and 38-41 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,295,502 ("Hancock"). Claims 28 and 37 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Hancock in view of Official Notice.

2. The Claimed Invention

Applicants' claims relate to a way to designate places, such as businesses or landmarks, with "location codes." These location codes facilitate identifying and searching for such places using electronic devices, such as mobile phones and computers. Each location code is comprised of at least four sub-strings. The first sub-string indicates one of a plurality of geographic areas; the second sub-string indicates one of a plurality of categories; the third sub-string indicates one of a plurality of sub-categories of one of the plurality of categories; and the fourth sub-string uniquely indicates a point of interest of a type corresponding to one of the plurality of sub-categories of one of the plurality of categories located in one of the plurality of geographic areas.

For example, the location code: 1*3*24*5* is the location code for Marcel Restaurant in Washington, D.C., where:

- first sub-string (geographic area) = 1: Washington D.C.;
- second sub-string (category) = 3: Restaurant Category;
- third sub-string (sub-category) = 24: French Restaurant Sub Category; and
- fourth sub-string (unique) = 5: Marcel's Unique Identifier among all French Restaurants in Washington D.C.

(See, Applicants' Specification, paragraph 43.) "By entering this number into a locator client ..., a user can immediately retrieve location information on Marcel Restaurant, including address, telephone, fax, email, web site address, reviews, menus, photographs, video recordings, live video feeds, sound recordings, etc." (Applicants' Specification, paragraph 44.) The user can also retrieve a listing of all French restaurants in Washington D.C. by entering the code 1*3*25*. (Applicants' Specification, paragraph 45.)

3. Clear Factual Deficiency of Rejections

In the Office Action mailed January 8, 2008, the Examiner stated that Hancock identified a single location code that teaches the limitations of claims 21, 30, 35, 38, and 41. (Office Action, page 2.) Specifically, the Examiner identified Hancock's code US.CA.NWB.MAC2 and provided the following summary regarding how Hancock's code corresponded to the substrings of Applicants' claimed location code:

- US is a geographic area (United States);
- CA is a category (California);
- NWB is a sub-category (Newport Beach); and
- MAC2 is a point of interest (MacDonalds).

(Office Action, page 2.) However, this summary highlights the Examiner's factual errors. The Examiner simply ignored the claim language explicitly indicating the contents of and relationship between the substrings in Applicants' claimed location code.

First of all, "CA" in Hancock's code refers to a geographic location, not a "category." Therefore, it is factually incorrect for the Examiner to conclude that CA in Hancock's code corresponds to the category sub-string of Applicants' claimed code. Likewise, NWB in Hancock's code also refers to a geographic location and, therefore, it is factually incorrect for the Examiner to conclude that NWB in Hancock's code corresponds to the sub-category sub-string of Applicants' claimed code.

Finally, using the Examiner's example, MAC2 must "indicate a point of interest of a type corresponding to one of the plurality of sub-categories of one of the plurality of categories located in one of the plurality of geographic areas." While MAC2 indicates a business, this business is not of a type corresponding to Newport Beach, California. The "CA" and "NWB"

sub-strings describe the geographic area of the MacDonald's, not the type of the point of interest (e.g., restaurant, fast food).

Applicants' claimed location code includes both location and category information. "The location code contains locational and categorical information on every point of interest that is selected." (Applicants' Specification, paragraph 29.) By equating category to location, the Examiner effectively eliminated categorical information from Applicants' claimed location code. As a result, a user would be unable to retrieve a listing of all French restaurants in Washington D.C. Instead, the user would be limited to retrieving a listing of all points of interests (restaurants, gas stations, banks, museums, monuments, government buildings, and so on) in Washington D.C. Such a listing does not comport with Applicants' goal of providing quick and efficient access to location information based on a location code. (See, e.g., Applicants' Specification, paragraph 13.)

Accordingly, Applicants believe that the Examiner's statement and analysis with respect to Hancock is factually incorrect.

4. Clear Legal Deficiency of Rejections

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). In order to establish a prima facie case of anticipation of a claim, the Examiner must establish that the cited reference teaches or suggests all of the claim limitations. See, e.g., MPEP § 2131. Applicants believe that the Examiner failed to establish the requisite prima facie case of anticipation.

In this case, the Examiner failed to establish the requisite prima facie case of anticipation of each pending claim, because the Examiner has not pointed to any disclosure in the art that would objectively suggest Applicants' claimed location code. Specifically, the Examiner has not identified a single location code that includes four substrings indicating:

- one of a plurality of geographic areas;
- one of a plurality of categories;
- one of a plurality of sub-categories of one of the plurality of categories; and
- a point of interest of a type corresponding to one of the plurality of sub-categories of one of the plurality of categories located in one of the plurality of geographic areas.

Because Hancock does not show or suggest a location code as claimed, the Examiner made a legal error in rejecting the claims under 35 U.S.C. § 102(e).

5. Conclusion

For the foregoing reasons, Applicants submit that all of the pending claims should be allowed.

Respectfully submitted,

Date: April 7, 2008

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